

3 FAM 8200 FAMILY MEMBER APPOINTMENTS

3 FAM 8210 FAMILY MEMBER LIMITED NONCAREER APPOINTMENT

*(TL:PER-498; 05-18-2004)
(Office of Origin: HR/OE)*

3 FAM 8211 AUTHORITY

*(TL:PER-489; 12-05-2003)
(State Only)
(Applies to U.S. Citizen Family Members Only)*

- a. The authority for these regulations establishing a Family Member Limited Noncareer Appointment includes Sections 301, 303, 309, 311, 403, 406, 407, 610; and 612 of the Foreign Service Act of 1980, as amended.
- b. Chapter 3 FAM 8200 Appendix A (Old 3 FAM 123 - Methods of Overseas Employment) does not apply to appointments under the authority of these regulations (3 FAM Chapter 8210 - Family Member Limited Noncareer Appointment), except for Old 3 FAM 123.8-3 paragraphs b, c, and e, 3 FAM 123.8-4, 3 FAM 123.8-5, 3 FAM 123.9-4, 3 FAM 123.16, 3 FAM 123.17-9, and as otherwise specifically provided in the regulations in 3 FAM 8210.
- c. In addition to existing authorities regarding waiver of FAM provisions, upon the recommendation of the Human Resources Office of Overseas Employment (HR/OE), the Director General of the Foreign Service and Director of Human Resources may waive provisions of 3 FAM 8200 if not contrary to law and with the concurrence of the Office of the Legal Adviser.

3 FAM 8212 DEFINITIONS

(TL:PER-498; 05-18-2004)

(State Only)

(Applies to U.S. Citizen Family Members Only)

- a. **Family Member Appointment (FMA)** is a type of Foreign Service Limited Noncareer Appointment available only to Appointment Eligible Family Members, as defined below, under the authority of Sections 309 and 311(a) of the Foreign Service Act of 1980, as amended (*22 U.S.C. 3949, 22 U.S.C. 3951(a)*). A Family Member Appointment has a term of more than one year but not more than five years. A Family Member Appointment may be extended or renewed in accordance with Sections 309 and 311 (a) of the Foreign Service Act of 1980, as amended, and the regulations in 3 FAM 8210.
- b. **Appointment Eligible Family Member (AEFM)** for purposes of 3 FAM 8210 is defined as a U.S. citizen spouse or a U.S. citizen child as referred to in 6 FAM 111.3 subparagraphs (1), who is at least age 18, and who, in either case, is on the travel orders of a Foreign or Civil Service employee or uniformed service member permanently assigned to or stationed at a U.S. Foreign Service post or establishment abroad *or at an office of the American Institute in Taiwan abroad*, and who does not receive a U.S. Government retirement annuity or pension based on a career in the U.S. Foreign, Civil, or uniformed service. The AEFM must be resident at the sponsoring employee's or uniformed service member's post *or office* of assignment abroad, approved safe haven abroad, or alternate safe haven abroad. Other family members or dependents on the sponsoring employee's or uniformed service member's travel orders are not AEFMs for purposes of 3 FAM 8210.
- c. **Qualifying Position:**
 - (1) A Department of State locally recruited position at a U.S. Foreign Service post or establishment abroad that has either a full-time regular workweek schedule (40 hours per workweek) or part-time regular workweek schedule (not less than 16 hours and not more than 32 hours per workweek). This does not include any temporary-need position limited by its terms to a period of one year or less (e.g., summer-hire or peak workload positions., If the position requires more than 32 hours per workweek, for purposes of a Family Member Appointment, it should be established either as a full-time position, or as a job-share arrangement with one or more part-time employees, each of whom works from 16 to 32

hours per workweek covering one full-time position. In exceptional circumstances, however, posts may seek approval on a case-by-case basis from the Office of Overseas Employment (HR/OE), to establish a part-time position of more than 32 hours but less than 40 hours per workweek for purposes of a Family Member Appointment. Such exceptions may be granted only during the incumbency of a particular individual in the position; or

- (2) A position (other than a temporary-need position) at a U.S. Foreign Service post or establishment abroad *or at an office of the American Institute of Taiwan abroad*, may be filled by AEFMs through special Department of State *procedures* or programs, such as the Professional Associates (PA) and Information Management Associates (IMA) programs, so long as the position meets the workweek schedule requirements established above in subparagraph c (1).

3 FAM 8213 POLICY

(TL:PER-498; 05-18-2004)

(State Only)

(Applies to U.S. Citizen Family Members Only)

- a. The purpose of the Family Member Limited Noncareer Appointment, hereinafter referred to as the Family Member Appointment (FMA), is to provide an efficient, equitable method of employing Appointment Eligible Family Members (AEFMs) of Foreign and Civil Service employees and uniformed service members permanently assigned to or stationed at U.S. Foreign Service posts or establishments abroad *or at offices of the American Institute of Taiwan abroad*.
- b. A Family Member Appointment is not a career appointment and does not confer career candidate status.
- c. A Family Member Appointment does not in and of itself entitle an individual holding such appointment to a position, compensation, and/or employee benefits. Persons holding a Family Member Appointment must compete for positions with other qualified and eligible applicants.
- d. The Family Member Appointment is only available for positions at U.S. Foreign Service posts and establishments abroad *or at offices of the American Institute of Taiwan abroad*.

3 FAM 8214 ELIGIBILITY CRITERIA

(TL:PER-489; 12-05-2003)

(State Only)

(Applies to U.S. Citizen Family Members Only)

To be appointed under a Family Member Appointment or to have such appointment extended or renewed, individuals must meet the following eligibility criteria:

- (1) The individual must be an Appointment Eligible Family Member as defined in 3 FAM 8212 paragraph b; and
- (2) The individual must either:
 - (a) Be in a qualifying position as defined in 3 FAM 8212, paragraph c; or
 - (b) Have received a conditional or unconditional offer of employment to a Qualifying Position as the result of a competitive recruitment process. In the case of individuals described in this subparagraph, the Family Member Appointment will be effective upon entry on duty in the qualifying position; and
- (3) The individual must hold a security clearance appropriate for the qualifying position to which appointed.

3 FAM 8215 TERMINATION OF FAMILY MEMBER APPOINTMENT

(TL:PER-489; 12-05-2003)

(State Only)

(Applies to U.S. Citizen Family Members Only)

- a. Family Member Appointments may be terminated at any time, regardless of the expiration date specified on the appointment personnel action. Sections 610 and 612 of the Foreign Service Act of 1980 (), as amended, govern the rights of employees separated for misconduct.
- b. Termination of an individual's Family Member Appointment may occur for any reason, including but not limited to one or more of the following events:

- (1) Retirement or other separation of the employee whose travel orders includes the individual under a Family Member Appointment (e.g., as a result of resignation, expiration of career appointment, death, etc.);
 - (2) Other loss of status of the individual as an Eligible Family Member (e.g., divorce, annulment of marriage, child marries or reaches age 21);
 - (3) Individual is in Intermittent-No-Work-Scheduled (INWS) status at the expiration date of the Family Member Appointment;
 - (4) Revocation, suspension, reduction, or termination of security clearance;
 - (5) Failure to perform satisfactorily in a position held by the individual under the Family Member Appointment;
 - (6) Acceptance or commencement of service under a personal services contract, nonpersonal services contract, third-party contract, or any other type of contractual arrangement with the U.S. Government, with termination of the Family Member Appointment to be effective upon the occurrence of any such event;
 - (7) Determination under Department suitability procedures that the employee does not meet suitability standards;
 - (8) Misconduct; and/or
 - (9) Such other cause as will promote the efficiency of the Foreign Service.
- c. The effective date of termination of a Family Member Appointment is effective on the last day of the pay period in which the date of the event warranting termination occurs, except as otherwise provided in 3 FAM 8215 paragraph b (6), or in paragraph e.
- d. An individual under a Family Member Appointment must notify, in writing, either the Human Resources Office (or Unit) or management section of the individual's post of residence abroad or, in the case of individuals residing in the United States, the Department's Office of Overseas Employment (HR/OE), when any of the events under 3 FAM 8215, paragraphs b (1) or (2) occurs:
- (1) A Family Member Appointment which would otherwise

terminate under 3 FAM 8215, subparagraph b (1) or (2) may continue in INWS status when the loss in eligible family member status is due to the death of the employee or divorce or annulment of the marriage to the employee of the individual under the Family Member Appointment. Such continuation under this provision may be:

- (a) For a period of up to one year from the date of the event which caused the loss in family status;
- (b) To the expiration (the "Not to Exceed" or "NTE") date of the Family Member Appointment; or
- (c) To the date on which the individual under the Family Member Appointment receives another appointment with the U.S. Government, whichever occurs first.

Consideration of such continuation shall require the written request of said individual under a Family Member Appointment to the Department's Office of Overseas Employment (HR/OE). Any such continuation in INWS status shall require the approval of the Director of HR/OE;

- (2) Continuation of a Family Member Appointment in active employment status at a post abroad or at an office of the American Institute of Taiwan abroad which would otherwise terminate under 3 FAM 8215, subparagraph b (1) or (2), shall require approval by the Director General (DG) upon the recommendation of the Director, HR/OE. If the DG approves such request, then applicable provisions of the Department of State's Standardized Regulations must be complied with if it is also requested that allowances be provided;
- (3) Continuation of a Family Member Appointment, which would otherwise terminate under 3 FAM 8215, subparagraph b (1) or (2), is solely at Department of State management discretion.

3 FAM 8216 POSITION CLASSIFICATION

(TL:PER-489; 12-05-2003)

(State Only)

(Applies to U.S. Citizen Family Members Only)

All positions held by individuals under Family Member Appointments

must be classified in accordance with the standards, guidelines, procedures, and authorities established by the Office of Overseas Employment (HR/OE), the office responsible for classification authority for locally recruited positions.

3 FAM 8217 APPOINTMENT AND PAY ADMINISTRATION

(TL:PER-359; 06-04-1998)

(State Only)

(Applies to U.S. Citizen Family Members Only)

Individuals under Family Member Appointments are compensated based on the pay range established for the class of the Qualifying Position they hold under each Family Member Appointment.

3 FAM 8217.1 Pay Under Initial Family Member Appointment

(TL:PER-359; 06-04-1998)

(State Only)

(Applies to U.S. Citizen Family Members Only)

- a. For purposes of this section, an initial Family Member Appointment is the first such appointment ever received by an individual or the first such appointment received by an individual after a break in service of more than three days following any appointment with the U.S. Government.
- b. An employee's salary in an initial Family Member Appointment is set at step one, or minimum rate, of the class of the Qualifying Position held in the Family Member Appointment. Subject to the administrative discretion of the bureaus, there are two exceptions, which allow for a higher rate within the class of the position: Superior Qualifications Rate (SQR) and Highest Previous Rate (HPR). See 3 FAM 8200 Appendix A (old 3 FAM 123), and 3 FAM 123.9-2 (B) and (C).
- c. Management use of SQR and HPR is discretionary and depends on both availability of funds and organizational needs. Employees are not entitled to SQR or HPR in determining the rate of the class of the qualifying position held in the initial Family Member Appointment. Use of SQR and HPR must be approved by the

regional or functional bureau that controls the Qualifying Position abroad.

3 FAM 8217.2 Intermittent-No-Work-Scheduled Status

(TL:PER-489; 12-05-2003)

(State Only)

(Applies to U.S. Citizen Family Members Only)

- a. Unless otherwise provided for under 3 FAM 8215 (d)(2), the work schedule of an individual under the Family Member Appointment is changed to Intermittent-No-Work-Scheduled (INWS), and the individual is reassigned to a Department of State FMA Inactive Complement position as a result of any of the following events:
 - (1) Individual under a Family Member Appointment vacates a Qualifying Position at a post abroad;
 - (2) Qualifying Position held by the individual under the Family Member Appointment is abolished or becomes unfunded; or
 - (3) End of Tour of Duty (TOD) at post of assignment of the employee whose travel orders include the individual under the Family Member Appointment.
- b. An individual under a Family Member Appointment in INWS status remains a Department of State employee.
- c. An individual under a Family Member Appointment in INWS status receives no pay, benefits, or service credit.

3 FAM 8217.3 Entry on Duty to a New Position While Under a Family Member Appointment

(TL:PER-359; 06-04-1998)

(State Only)

(Applies to U.S. Citizen Family Members Only)

- a. The movement of an individual already under a Family Member Appointment who enters on duty to a new Qualifying Position, whether immediately from another Qualifying Position or from INWS status, is accomplished by converting the individual's appointment to a new Family Member Appointment.

- b. The new Family Member Appointment shall reflect the class and work schedule of the new qualifying position.
- c. An individual in a qualifying position under a Family Member Appointment must serve at least 90 calendar days in that qualifying position prior to being eligible to apply for another position at the same post of employment.

3 FAM 8217.4 Position and Class Changes

(TL:PER-359; 06-04-1998)

(State Only)

(Applies to U.S. Citizen Family Members Only)

The terms of conversions referred to in 3 FAM 8217.3, paragraphs a and b, and the manner in which such conversions will be effected, will be set forth in regulations to be subsequently issued in 3 FAM, Personnel, or in 3 FAH-1, Personnel Operations Handbook.

3 FAM 8217.5 Within Class Increases

(TL:PER-359; 06-04-1998)

(State Only)

(Applies to U.S. Citizen Family Members Only)

The terms under which Within Class Increases will be available to individuals under a Family Member Appointment will be set forth in regulations to be subsequently issued in 3 FAM, Personnel, or in 3 FAH-1, Personnel Operations Handbook.

3 FAM 8218 BENEFITS AND RESPONSIBILITIES

3 FAM 8218.1 Allowances, Differentials and Other Benefits

(TL:PER-489; 12-05-2003)

(State Only)

(Applies to U.S. Citizen Family Members Only)

- a. Individuals under Family Member Appointments shall not be entitled to receive in their own right as employees any allowances,

differentials, or other benefits (e.g., including but not limited to such allowances, differentials, and benefits as Temporary Lodging, Living Quarters, Transfer, Home Service Transfer, Education, Separate Maintenance Allowances, Post Differential, Advances of Pay, home leave, rest and recreation, etc.) unless specifically authorized in 3 FAM 8210, Family Member Noncareer Limited Appointments, or unless required by statute.

- b. Individuals under Family Member Appointments are eligible for Danger Pay in their own right as employees, if they otherwise meet the qualifying criteria for such allowance.
- c. Individuals under Family Member Appointments working under a full-time workweek schedule are eligible for Post Allowance in their own right as employees if they otherwise meet the qualifying criteria for such allowance, but only if a post-specific exception has been authorized by the Department in cases where a bureau requests relief from rare and unusual compensation issues which adversely affect a post's ability to meet staffing requirements.

3 FAM 8218.2 Leave Without Pay (LWOP)

(TL:PER-359; 06-04-1998)

(State Only)

(Applies to U.S. Citizen Family Members Only)

Leave Without Pay (LWOP) may be granted only to individuals under a Family Member Appointment who are expected to return after the LWOP to the same position from which LWOP is being requested.

3 FAM 8218.3 Standards of Conduct

(TL:PER-359; 06-04-1998)

(State Only)

(Applies to U.S. Citizen Family Members Only)

Regardless of whether they are currently serving in a position abroad or are in INWS status or on LWOP abroad or in the United States, individuals under a Family Member Appointment are subject to standards of conduct requirements applicable to Department of State employees as well as to all U.S. Government employees. See 3 FAM 4100 and Title 5, Code of Federal Regulations, Part 2635 (5 CFR 2635).

3 FAM 8219 SECURITY CLEARANCES AND SUITABILITY

(TL:PER-489; 12-05-2003)

(State Only)

(Applies to U.S. Citizen Family Members Only)

- a. In all cases, individuals to be appointed under a Family Member Appointment will be subject to appropriate investigation to determine suitability for employment and, if required, security clearance eligibility.
- b. In the event that information is developed that raises a question of suitability for employment, the Bureau of Human Resources (HR) suitability panel will determine whether an individual may be appointed under a Family Member Appointment, or whether a current Family Member Appointment may continue or must be terminated.
- c. Security clearances for all individuals under Family Member Appointments are investigated, granted, denied, revoked, suspended, and/or reduced by the Department's Bureau of Diplomatic Security (DS) in accordance with 12 FAM 230 and Executive Order 12968.